UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,959	04/03/2001	Yoichiro Tauchi	450100-03143	1879

20999 7590 10/19/2005

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER	
NGUYEN, HUY THANH	
ART UNIT	**PAPER NUMBER**
2616	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/824,959	TAUCHI ET AL.	
	Examiner	Art Unit	
	HUY T. NGUYEN	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *7-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *7-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *11/01/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: See examiner comment below. Appropriate correction is required.

Claim 10, line 1, after "program" should be inserted -- executed by a computer for performing a method -- ; and

Claim 10, line 3, "program" should be changed to –method --.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Senshu et al (6,658,195) in view of Yamada et al (6,115,537)..

Regarding claim 7 , Senshu teaches a magnetic-tape recording apparatus (Figs. 1-3) for recording digital data on a magnetic tape by a rotating head comprising:

first obtaining means for obtaining first-group data, including video data, audio data, or search data (Fig. 3 column 5, lines 1-15));

second obtaining means for obtaining second-group data including sub-code data related to the first-group data (Fig. 3, column 5, lines 1-15);

third obtaining means for obtaining third-group data including track information (ITI) (Fig. 3 column 5, lines 1-15);

synthesizing means for synthesizing the first-group data and the second-group data such that they are continuous without any space disposed therebetween and for synthesizing the third-group data so as to form a gap between the third- group data and the first-group data on a track in the magnetic tape (Fig,. 3, column 5); and

sending means for sending data synthesized by the synthesizing means to the rotating head in order to record the data on the magnetic tape (Fig.3, column 5).

Senshu fails to specifically teach that the sync bocks of the main data having header for identifying the type of data.

Yamada teaches a recording apparatus for recording the main data formed by sync blocks having identifying data generating means for generating ID for sync block headers to identify the type of data (Fig. 5D , column 29).

It would have been obvious to one of ordinary skill in the art to modify Senshu with Yamada by using an identifying data generating means as taught by Yamada with the apparatus of Senshu for providing each sync block of the main data of Yamada with a header having identifying data to identify the type of data of the main data in order to accurately access the data .

Method claims 9 and 10 correspond to apparatus claim 7. Therefore method claims 9 and 110 are rejected by the same reason as applied to apparatus claim 7.

Further for claim 10, Senshu as modified with Yamada further teaches a program stored on a medium since Senshu and Yamada teach that the video, audio . track information and subcode are processed and synthesized and arranged by a controller of the apparatus.

4. Claims 7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oguro (6,026,212) in view of Yamada et al (6,115,537)..

Regarding claim 7 , Oguro teaches a magnetic-tape recording apparatus (Figs. 3,9) for recording digital data on a magnetic tape by a rotating head comprising:

first obtaining means for obtaining first-group data, including video data, audio data, or search data (Fig. 3, column 11);

second obtaining means for obtaining second-group data including sub-code data related to the first-group data (Fig. 3, column 1);

third obtaining means for obtaining third-group data including track information (ITI) (Fig. 3 column 1).;

synthesizing means for synthesizing the first-group data and the second-group data such that they are continuous without any space disposed therebetween and for synthesizing the third-group data so as to form a gap between the third- group data and the first-group data on a track in the magnetic tape (Fig,. 3, column 1)

sending means for sending data synthesized by the synthesizing means to the rotating head in order to record the data on the magnetic tape (Fig.3, column 1).

Oguro fails to specifically teach that the sync bocks of the main data having header for identifying the type of data.

Yamada teaches a recording apparatus for recording the main data formed by sync blocks having identifying data generating means for generating ID for sync block headers to identify the type of data (Fig. 5D , column 29).

It would have been obvious to one of ordinary skill I the art to modify Oguro with Yamada by using an identifying data generating means as taught by Yamada with the apparatus of Oguro for providing each sync block of the main data of Yamada with a header having identifying data to identify the type of data of the main data in order to accurately access the data .

Method claims 9 and 10 correspond to apparatus claim 7. Therefore method claims 9 and 110 are rejected by the same reason as applied to apparatus claim 7.

Further for claim 10, Senshu as modified with Yamada further teaches a program stored on a medium since Senshu and Yamada teach that the video, audio . track information and subcode are processed and synthesized and arranged by a controller of the apparatus

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Senshu et al (6,658,195) in view of Yamada et al as applied to claim 7 above , further in view of Lee (5,940,016).

Regarding claim 8, Senshu fails to teach using MP@HL or MP@H-14 in the MPEG system for compressing the video signal.

Lee teaches using MP@HL or MP@H-14 in the MPEG system for decoding a reproduced compressed MPEG video signal . It would have been obvious to one of ordinary skill in the art to modify Senshu with Lee for using MP@HL or MP@H-14 in the MPEG system as an alternative method for compressing the video signal.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oguro (6,026,212) in view of Yamada et al as applied to claim 7 above , further in view of Lee (5,940,016).

Regarding claim 8, Senshu fails to teach using MP@HL or MP@H-14 in the MPEG system for compressing the video signal.

Lee teaches using MP@HL or MP@H-14 in the MPEG system for decoding a reproduced compressed MPEG video signal . It would have been obvious to one of ordinary skill in the art to modify Senshu with Lee for using MP@HL or MP@H-14 in the MPEG system as an alternative method for compressing the video signal.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 7 and 9-10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 5-6 of copending Application No. 09/817,515 in view of Oguro (6,026,212).

The difference between claim 7 and 9-10 of the present application and claims 1 and 5-6 of copending Application No. 09/817,515 is that claims 7 and 9-10 further recite means for obtaining track information and for synthesizing track information with main data and subcode data that is not found in claims 1 and 5-6 of the copending

Application No. 09/817,515. However, it is noted that a recording apparatus having means for generating track information is well known in the art as taught by Oguro (Fig. 3, column 1) . Therefore , it would have been obvious to one of ordinary skill in the art to modify claims 1 and 5-6 of copending Application No. 09/817,515 by providing claims 1 and 5-6 of copending Application No. 09/817,515 with track information generating means for generating track information and synthesizing the track information with main data and subcode data and recording the synthesized information on the tape thereby accurately accessing the data on the tape and to produce claims 7 and 9-10 of the present application .

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

9. Applicant's arguments filed 01 August 2005 have been fully considered but they are not persuasive.

In Remarks, applicant agues that Senshu does not teach track information . In response , the examiner disagrees. It is noted that at Fig 3, Senshu teaches track information (ITI) that is recorded on the tape .

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N

HUY NGUYEN
PRIMARY EXAMINER